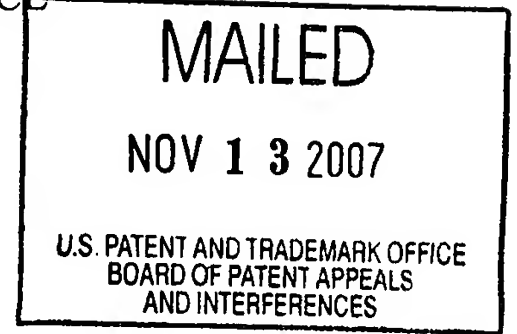


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte: MICHAEL WOOKEY, TREVOR WATSON  
AND JEAN CHOUANARD

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Application No. 10/067,165

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on October 31, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

**APPEAL BRIEF**

Appellant filed an Appeal Brief dated January 4, 2007, in response to the Notification of Non-Compliant Appeal Brief mailed December 4, 2006. The Appeal Brief is not in compliance with 37 CFR § 41.37(c) effective September 13, 2004.

37 CFR § 41.37(c) states in part:

(c)(1)The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(iii) *Status of claims*. A statement of the status of all the claims in the proceeding (*e.g.*, rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

(v) *Summary of claimed subject matter*. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Status of Claims” section does not properly identify the appealed claims.

The “Summary of claimed subject matter” appearing on page 3-5 of the Appeal Brief filed January 4, 2007, is deficient because it does not separately map independent claims 1, 17 and 13 to the specification.

The “Grounds of Rejection to be Reviewed on Appeal” appearing on page 5 of the Appeal Brief only identifies and argues independent claims. Each ground of rejection on appeal by appellant should be argued in the “Arguments” section.

### **CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

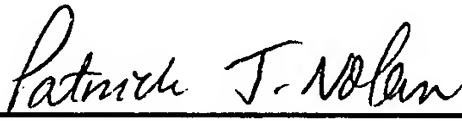
- 1) hold the Appeal Brief filed January 4, 2007, defective;
- 2) notify the appellant to submit a Supplemental Appeal Brief which corrects the Appeal Brief, Status of Claims under 37 § 41.37(c)(1)(iii), Summary of Claimed Subject Matter under 37 § 41.37(c)(1)(v) and Grounds of Rejection to be Reviewed on Appeal;

Application No. 10/067,165

3) acknowledgement and consideration of any Supplemental Appeal Brief that may be submitted by Appellant in response to the Notice of Non-Compliance to correct the Appeal Brief as required by 37 § 41.37(c)(1)(v); and

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
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PJN/tsj

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